



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

March 25, 1993
AO-93-09

Janet Stirgwolt
Councillor-At-Large
City of Salem
Office of the City Council
City Hall
Salem, MA 01970

Re: Application of Campaign Finance Laws to Public Employees
and Political Solicitation

Dear Ms. Stirgwolt:

This letter is in response to your January 22, 1993,
letter requesting an advisory opinion as to the legality of
certain proposed activities.

You have stated that you would like further clarification
of OCPF-IB-92-01, an Interpretative Bulletin, which was issued
by this office on June 15, 1992, entitled, "The Application of
Campaign Finance Laws to Public Employees and Political
Solicitation." More specifically, you would like clarification
of M.G.L. c.55, s.13 as it applies to public employees in the
following activities:

- 1) Accepting donations or payment for admission to
fundraising events to benefit a political candidate or
a political committee at the door of such an event.
- 2) Distributing tickets for a fundraising event to
benefit a political candidate or political committee
and soliciting attendance at such an event by
telephone.

In addition, you would like to know whether it is the
political candidate, the political committee or the public
employee that is in violation of M.G.L. c.55 and thus subject
to penalties.¹

1. Because of the minimal details provided in your letter, in
formulating a response, I will assume that the individual
involved 1) is a public employee and 2) does not otherwise
participate in any fundraising activity.

For the reasons set forth below, it is this office's opinion that a compensated public employee, other than an elected official (hereinafter "public employee"), may not participate in the above described activities. If the public employee does participate in such activities, the public employee would be in violation of M.G.L. c.55, s.13 and subject to the penalties provided in the statute. As noted in the penultimate paragraph, whether a political committee has violated the campaign finance laws under these circumstances will depend on the specific facts of each case.

Section 13 of M.G.L. c.55 provides, in pertinent part:

No person employed for compensation, other than an elected officer, by the ccmmonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purpcses of any candidate for public office or any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees . . .

Any . . . employee convicted of violating any provision of this section may be removed by the appointing authority without a hearing.

Violation of any provision of this section shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars (emphasis added).

Thus, section 13 prohibits public employees from directly or indirectly soliciting or receiving any thing of value for political campaign purposes or for any political purpose whatsoever and provides sanctions for public employees who violate this section.

This office has advised that public employees must refrain from any activity which indicates support, in a material way, for the fundraising efforts of a candidate or political committee or for any other political purpose. For example, a public employee may not sell tickets to a political event even though not formally organized or characterized as a fundraiser (AO-92-19), a public employee may not present a check to a Congressman if subsequent publicity of the event is used to solicit funds for a prohibited political purpose (AO-92-33), public employees may not permit their names to be listed on political committee stationery as officers or members if such stationery is to be used to solicit funds for the political committee (AO-84-02), public employees are prohibited from hosting or permitting a political fundraising party at their homes (AO-84-06). This office has further advised that public

employees have a responsibility to use reasonable care to ensure that they are not knowingly participating in a fundraising event or permitting their participation in such an event to be used for political fundraising purposes. See OCPF-IB-92-01.

Whether such activity constitutes a direct or indirect solicitation is necessary for this office to consider since accepting donations is a prohibited receipt of political funds.

Consistent with the above, the activities in both of your proposed situations would be prohibited. In the first situation, while merely accepting donations for payment for admission to a fundraising event may not be direct solicitation, it would clearly be a prohibited receipt of money for political purposes. In the second situation, distributing tickets for a fundraising event and soliciting attendance via telephone would clearly be active participation in the fundraising process and therefore, a prohibited direct solicitation.

As noted above, only the public employee would be subject to the sanctions provided by M.G.L. c.55, s.13. However, whether the political candidate or the political committee would be subject to penalties provided by other sections of c.55 or other relevant Massachusetts laws would depend on the facts of each case. However, I note specifically that M.G.L. c.55, s.7 provides, in pertinent part, "No person or combination of persons including a corporation formed under the provisions of chapter one hundred and eighty, shall in connection with any nomination or election receive money or its equivalent, expend or disburse or promise to expend or disburse the same, except as authorized by this chapter." This office has advised, generally, that a political committee which uses public employees to solicit contributions would be in violation of s.7's prohibition. See OCPF-IB-92-01, page 10.

This opinion has been rendered solely on the basis of the representations made in your letter and solely within the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,



Mary F. McTigue
Director